

§ 28-2. Definitions

As used in section 28-1 of this title,

(a) The term “geological surveys” means surveys on the ground for mineral deposits by the proper application of the principles and techniques of the science of geology as they relate to the search for and discovery of mineral deposits;

(b) The term “geochemical surveys” means surveys on the ground for mineral deposits by the proper application of the principles and techniques of the science of chemistry as they relate to the search for and discovery of mineral deposits;

(c) The term “geophysical surveys” means surveys on the ground for mineral deposits through the employment of generally recognized equipment and methods for measuring physical differences between rock types or discontinuities in geological formations;

(d) The term “qualified expert” means an individual qualified by education or experience to conduct geological, geochemical or geophysical surveys, as the case may be.

(Pub. L. 85-876, § 2, Sept. 2, 1958, 72 Stat. 1701.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 16 section 460mm-1.

§ 28a. Omitted

CODIFICATION

Section, act June 29, 1950, ch. 404, 64 Stat. 275, provided for extension of time of annual assessment work, on mining claims in the United States, including Alaska, for period commencing July 1, 1949, until 12 o'clock noon Oct. 1, 1950, and also provided for commencement of assessment work or improvements required for year ending 12 o'clock noon July 1, 1951, immediately following 12 o'clock noon July 1, 1950. See sections 28b to 28e of this title.

§ 28b. Annual assessment work on mining claims; temporary deferment; conditions

The performance of not less than \$100 worth of labor or the making of improvements aggregating such amount, which labor or improvements are required under the provisions of section 28 of this title to be made during each year, may be deferred by the Secretary of the Interior as to any mining claim or group of claims in the United States upon the submission by the claimant of evidence satisfactory to the Secretary that such mining claim or group of claims is surrounded by lands over which a right-of-way for the performance of such assessment work has been denied or is in litigation or is in the process of acquisition under State law or that other legal impediments exist which affect the right of the claimant to enter upon the surface of such claim or group of claims or to gain access to the boundaries thereof.

(June 21, 1949, ch. 232, § 1, 63 Stat. 214.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 28c, 28d, 28e of this title; title 16 section 460mm-1.

§ 28c. Length and termination of deferment

The period for which said deferment may be granted shall end when the conditions justifying

deferment have been removed: *Provided*, That the initial period shall not exceed one year but may be renewed for a further period of one year if justifiable conditions exist: *Provided further*, That the relief available under sections 28b to 28e of this title is in addition to any relief available under any other Act of Congress with respect to mining claims.

(June 21, 1949, ch. 232, § 2, 63 Stat. 215.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 28d, 28e of this title; title 16 section 460mm-1.

§ 28d. Performance of deferred work

All deferred assessment work shall be performed not later than the end of the assessment year next subsequent to the removal or cessation of the causes for deferment or the expiration of any deferments granted under sections 28b to 28e of this title and shall be in addition to the annual assessment work required by law in such year.

(June 21, 1949, ch. 232, § 3, 63 Stat. 215.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 28b, 28c, 28e of this title; title 16 section 460mm-1.

§ 28e. Recordation of deferment

Claimant shall file or record or cause to be filed or recorded in the office where the notice or certificate of location of such claim or group of claims is filed or recorded, a notice to the public of claimant's petition to the Secretary of the Interior for deferment under sections 28b to 28e of this title, and of the order or decision disposing of such petition.

(June 21, 1949, ch. 232, § 4, 63 Stat. 215.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 28b, 28c, 28d of this title; title 16 section 460mm-1.

§ 28f. Fee**(a) Claim maintenance fee**

The holder of each unpatented mining claim, mill, or tunnel site, located pursuant to the mining laws of the United States, whether located before, on or after August 10, 1993, shall pay to the Secretary of the Interior, on or before September 1 of each year for years 2002 through 2003, a claim maintenance fee of \$100 per claim or site¹ Such claim maintenance fee shall be in lieu of the assessment work requirement contained in the Mining Law of 1872 (30 U.S.C. 28-28e)² and the related filing requirements contained in section 1744(a) and (c) of title 43.

(b) Time of payment

The claim maintenance fee payable pursuant to subsection (a) of this section for any assessment year shall be paid before the commencement of the assessment year, except that for the initial assessment year in which the location is made, the locator shall pay the claim maintenance

¹ So in original. Probably should be followed by a period.

² See References in Text note below.

nance fee at the time the location notice is recorded with the Bureau of Land Management. The location fee imposed under section 28g of this title shall be payable not later than 90 days after the date of location.

(c) Oil shale claims subject to claim maintenance fees under Energy Policy Act of 1992

This section shall not apply to any oil shale claims for which a fee is required to be paid under section 2511(e)(2) of the Energy Policy Act of 1992 (Public Law 102-486; 106 Stat. 3111; 30 U.S.C. 242).

(d) Waiver

(1) The claim maintenance fee required under this section may be waived for a claimant who certifies in writing to the Secretary that on the date the payment was due, the claimant and all related parties—

(A) held not more than 10 mining claims, mill sites, or tunnel sites, or any combination thereof, on public lands; and

(B) have performed assessment work required under the Mining Law of 1872 (30 U.S.C. 28-28e)¹ to maintain the mining claims held by the claimant and such related parties for the assessment year ending on noon of September 1 of the calendar year in which payment of the claim maintenance fee was due.

(2) For purposes of paragraph (1), with respect to any claimant, the term “related party” means—

(A) the spouse and dependent children (as defined in section 152 of title 26), of the claimant; and

(B) a person who controls, is controlled by, or is under common control with the claimant.

For purposes of this section, the term control includes actual control, legal control, and the power to exercise control, through or by common directors, officers, stockholders, a voting trust, or a holding company or investment company, or any other means.

(3) If a small miner waiver application is determined to be defective for any reason, the claimant shall have a period of 60 days after receipt of written notification of the defect or defects by the Bureau of Land Management to: (A) cure such defect or defects, or (B) pay the \$100 claim maintenance fee due for such period.

(Pub. L. 103-66, title X, § 10101, Aug. 10, 1993, 107 Stat. 405; Pub. L. 105-240, § 116, Sept. 25, 1998, 112 Stat. 1570; Pub. L. 105-277, div. A, § 101(e) [title I], Oct. 21, 1998, 112 Stat. 2681-231, 2681-235; Pub. L. 107-63, title I, [(1)], Nov. 5, 2001, 115 Stat. 418.)

REFERENCES IN TEXT

The mining laws of the United States, referred to in subsec. (a), are classified generally to this title.

The Mining Law of 1872 (30 U.S.C. 28-28e), referred to in subsecs. (a) and (d)(1)(B), probably means act May 10, 1872, ch. 152, 17 Stat. 91, as amended. That act was incorporated into the Revised Statutes as R.S. §§ 2319 to 2328, 2331, 2333 to 2337, and 2344, which are classified to sections 22 to 24, 26 to 28, 29, 30, 33 to 35, 37, 39 to 42, and 47 of this title. For complete classification of R.S. §§ 2319 to 2328, 2331, 2333 to 2337, and 2344 to the Code, see Tables.

CODIFICATION

Pub. L. 107-63, which directed the amendment of section 28f of title 30, United States Code, was executed by

making the amendment to section 10101 of Pub. L. 103-66, which is classified to this section, to reflect the probable intent of Congress. See 2001 Amendment note below.

Pub. L. 105-277, which directed the amendment of section 28f of title 30, United States Code, was executed by making the amendment to section 10101 of Pub. L. 103-66, which is classified to this section, to reflect the probable intent of Congress. See 1998 Amendment notes below.

AMENDMENTS

2001—Subsec. (a). Pub. L. 107-63 added first sentence and struck out former first sentence which read as follows: “The holder of each unpatented mining claim, mill, or tunnel site, located pursuant to the mining laws of the United States, whether located before or after August 10, 1993, shall pay to the Secretary of the Interior, on or before September 1 of each year for years 1999 through 2001, a claim maintenance fee of \$100 per claim or site.” See Codification note above.

1998—Subsec. (a). Pub. L. 105-277 added first sentence and struck out former first sentence which read as follows: “The holder of each unpatented mining claim, mill, or tunnel site located pursuant to the mining laws of the United States before October 1, 1998 shall pay the Secretary of the Interior, on or before September 1, 1999 a claim maintenance fee of \$100 per claim site.” See Codification note above.

Pub. L. 105-240 substituted “The holder of each unpatented mining claim, mill, or tunnel site located pursuant to the mining laws of the United States before October 1, 1998 shall pay the Secretary of the Interior, on or before September 1, 1999 a claim maintenance fee of \$100 per claim site.” for “The holder of each unpatented mining claim, mill or tunnel site located pursuant to the Mining Laws of the United States, whether located before or after August 10, 1993, shall pay to the Secretary of the Interior, on or before August 31 of each year, for years 1994 through 1998, a claim maintenance fee of \$100 per claim.”

Subsec. (d)(3). Pub. L. 105-277 added par. (3). See Codification note above.

SIMILAR PROVISIONS

Similar provisions were contained in Pub. L. 102-381, title I, Oct. 5, 1992, 106 Stat. 1378, 1379.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 28, 28g, 28i, 28j, 28k of this title.

§ 28g. Location fee

Notwithstanding any other provision of law, for every unpatented mining claim, mill or tunnel site located after August 10, 1993, and before September 30, 2003, pursuant to the Mining Laws of the United States, the locator shall, at the time the location notice is recorded with the Bureau of Land Management, pay to the Secretary of the Interior a location fee, in addition to the claim maintenance fee required by section 28f of this title, of \$25.00 per claim.

(Pub. L. 103-66, title X, § 10102, Aug. 10, 1993, 107 Stat. 406; Pub. L. 105-277, div. A, § 101(e) [title I], Oct. 21, 1998, 112 Stat. 2681-231, 2681-235; Pub. L. 107-63, title I, [(2)], Nov. 5, 2001, 115 Stat. 419.)

REFERENCES IN TEXT

The Mining Laws of the United States, referred to in text, are classified generally to this title.

CODIFICATION

Pub. L. 107-63, which directed the amendment of section 28f(a) of title 30, United States Code, in section 28g, was executed by making the amendment to section